

Michael F. Thomson (#9707)  
Peggy Hunt (#6060)  
DORSEY & WHITNEY LLP  
136 South Main Street, Suite 1000  
Salt Lake City, UT 84101-1685  
Telephone: (801) 933-7360  
Facsimile: (801) 933-7373  
Email: thomson.michael@dorsey.com  
hunt.peggy@dorsey.com

*Attorneys for Michael F. Thomson, Chapter 7 Trustee*

---

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

---

In re:

MASON LOFTHOUSE  
CHELSEA LOFTHOUSE,

Debtors.

Bankr. Case No. 14-22047

Chapter 7

The Honorable William T. Thurman

---

**CHAPTER 7 TRUSTEE'S REQUEST FOR ORDER COMPELLING  
COMPLIANCE WITH DIRECTIVES**

---

Michael F. Thomson, the Chapter 7 trustee (the "Trustee") for the bankruptcy estate of Mason Lofthouse and Chelsea Lofthouse (together, the "Debtors"), hereby moves this Court for entry of an Order directing the Debtors to comply with the Trustee's directives and to (1) provide all documents evidencing the post-petition trade-in of their 1998 Toyota Tacoma (the "Toyota"), for another vehicle, including, but not limited to, evidence of the value received for the Toyota and all loan documents related to the purchase of the new vehicle and (2) update the Court with the Debtors' current mailing address. In support hereof, the Trustee states as follows:

## **JURISDICTION AND VENUE**

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

## **BACKGROUND**

3. On March 5, 2014 (the “Petition Date”), the Debtors filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code.
4. Also on March 5, 2014, the Trustee was appointed the interim Chapter 7 trustee for the Debtors’ bankruptcy estate, and he now serves as the permanent trustee.
5. At the meeting of creditors held on April 11, 2014, the Debtors were directed by the Trustee *inter alia* to have their Toyota appraised by no later than April 25, 2014. A copy of the Chapter 7 Trustee’s Directive is attached as **Exhibit A**.
6. After numerous follow-up correspondence were sent by the Trustee’s office to the Debtors’ attorneys’ office, it was brought to the Trustee’s attention that the Debtors had traded in their Toyota for a new vehicle post-petition.
7. On or about October 20, 2014, the Trustee sent correspondence to the Debtors’ counsel (with a copy to the Debtors) directing the Debtors *inter alia* to turn over all documents evidencing the post-petition trade-in of their Toyota, for another vehicle, including, but not limited to, evidence of the value received for the Toyota and all loan documents related to the purchase of the new vehicle. A copy of this correspondence is attached as **Exhibit B**.
8. On or about October 28, 2014, the copy of the October 20<sup>th</sup> correspondence which was sent to the Debtors at their address on file with the Court was returned undeliverable by the

Post Office. The Trustee's office notified the Debtors' counsel of the returned mail and requested that the Debtors update the Court with their current address as soon as possible. A copy of the email correspondence related to the mail is attached as **Exhibit C**.

9. On or about November 12, 2014, the Trustee sent correspondence to the Debtors' counsel reminding the Debtors to provide the requested documents and to update the Court with their current address, and advising them that the Debtors' failure to comply with the directives of their bankruptcy trustee would lead the Trustee to file a motion with the Court compelling them to comply with his directives. A copy of this correspondence (without enclosures) is attached as **Exhibit D**.

#### **REQUEST FOR COMPLIANCE**

10. As of today's date, the Debtors have not provided any documents evidencing the post-petition trade-in of their Toyota and they have not updated the Court with their current address.

11. 11 U.S.C. § 521(a)(3) requires the Debtors to "cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title." Among the Trustee's duties are to "collect and reduce to money property of the estate" and to "investigate the financial affairs of the debtor." 11 U.S.C. § 704(a)(1) & (4). 11 U.S.C. § 521(a)(4) requires the Debtors to "surrender to the Trustee all property of the estate and any recorded information including books, documents, records, and papers, relating to property of the estate. . ." The Debtors have failed and refused to comply with the Trustee's directives, and have therefore failed to perform their statutory duties. Accordingly, the Trustee requests an Order from the Court directing the Debtors to comply with the Trustee's directives to provide all documents

evidencing the post-petition trade-in of their Toyota and to update the Court with the Debtors' current mailing address within ten (10) days of the entry of the Court's order granting this Motion.

DATED this 1<sup>st</sup> day of December, 2014.

A handwritten signature in black ink, appearing to read "Michael F. Thomson", written over a horizontal line.

Michael F. Thomson  
Peggy Hunt  
DORSEY & WHITNEY LLP  
Attorneys for Chapter 7 Trustee

**CERTIFICATE OF SERVICE – BY NOTICE OF ELECTRONIC FILING (CM/ECF)**

I hereby certify that on the 1 day of December, 2014, I electronically filed the foregoing **CHAPTER 7 TRUSTEE'S REQUEST FOR ORDER COMPELLING COMPLIANCE WITH DIRECTIVES** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF uses and will be served through the CM/ECF system.

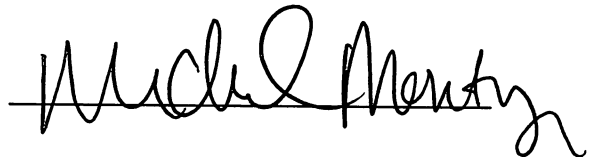
- Bryan Adamson badamson@dixielegal.com, rcampbell@dixielegal.com
- Mary Margaret Hunt hunt.peggy@dorsey.com, long.candy@dorsey.com;koontz.jennifer@dorsey.com
- Michael F. Thomson tr thomson.michael@dorsey.com, UT17@ecfbis.com;montoya.michelle@dorsey.com;koontz.jennifer@dorsey.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

**CERTIFICATE OF SERVICE – MAIL, OTHER**

I further certify that on 1 day of December, 2014, I caused to be served a true and correct copy of the foregoing **CHAPTER 7 TRUSTEE'S REQUEST FOR ORDER COMPELLING COMPLIANCE WITH DIRECTIVES** as follows:

**Mail Service – By regular first class United States Mail, postage fully pre-paid, addressed to:**

Mason & Chelsea Lofthouse  
2050 South 1400 East  
St. George, UT 84770

A handwritten signature in black ink, appearing to read "Michael Montoya", is written over a horizontal line.

# EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH**

In re: <u>Lofthouse, Mason</u> <u>Lofthouse, Chelsea</u> First Meeting of Creditors: <u>4/11/14</u>	Chapter 7 Bankruptcy No: <u>14-22047</u>
---	--

**CHAPTER 7 TRUSTEE'S DIRECTIVE**

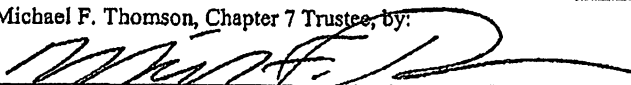
**NOTICE TO DEBTOR(S):**

PURSUANT TO 11 U.S.C. § 521(a)(3)&(4) AND RULES 2003-1(b) AND 4002-1, LOCAL RULES OF PRACTICE OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH, THESE INSTRUCTIONS FROM THE TRUSTEE MUST BE COMPLIED WITH. IF YOU DO NOT UNDERSTAND WHAT IS REQUIRED OF YOU, DISCUSS THE MATTER WITH YOUR ATTORNEY.

You are instructed to provide to the Trustee, through your attorney, the following documents (if marked):

<input checked="" type="checkbox"/>	1. <b>TAX RETURNS:</b> Supply the Trustee with copies of Federal and State tax returns for the tax years <u>2013</u> by no later than <u>4/15/14</u> .
<input checked="" type="checkbox"/>	2. <b>TAX REFUNDS:</b> Turn over to the Trustee any tax refunds, both State and Federal, that you may receive. All refunds due to you are property of the estate, and must be turned over to the Trustee immediately. <b>DO NOT CASH REFUND CHECKS!</b>
<input type="checkbox"/>	3. <b>FINANCIAL ACCOUNT STATEMENTS:</b> Within fourteen (14) days, Debtor(s) are directed to turn over to the Trustee copies of statements on all accounts for the month(s) of _____.
<input checked="" type="checkbox"/>	4. <b>VEHICLES/PERSONAL PROPERTY:</b> Within fourteen (14) days, Debtor(s) are directed to contact Statewide Liquidators & Auction Co. at (801) 521-5600 to arrange for turnover of the following for appraisal sale <u>1998 Toyota Tacoma</u>
<input type="checkbox"/>	5. <b>MOTOR VEHICLE TITLES:</b> Within fourteen (14) days, Debtor(s) are directed to turn over to the Trustee copies of motor vehicle titles for any and all vehicles titled in the name of the Debtor(s).
<input type="checkbox"/>	6. <b>REAL PROPERTY DOCUMENTS:</b> Within fourteen (14) days, Debtor(s) are directed to turn over to the Trustee copies of all real property documents including, but not limited to, trust deeds, loan documents, and payoff amounts.
<input type="checkbox"/>	7. <b>OTHER:</b> Within fourteen (14) days, supply the Trustee with the following: _____
<input type="checkbox"/>	8. <b>DIRECTED AMENDMENTS:</b> Within fourteen (14) days, Debtor(s) are directed to make the following amendments to their bankruptcy papers: Bankruptcy Petition: <input type="checkbox"/> Name; <input type="checkbox"/> Address; <input type="checkbox"/> SS# or Tax ID#; <input type="checkbox"/> Prior Bankruptcy Filing; <input type="checkbox"/> Other _____ Schedules: <input type="checkbox"/> A; <input type="checkbox"/> B; <input type="checkbox"/> C; <input type="checkbox"/> D; <input type="checkbox"/> E; <input type="checkbox"/> F; <input type="checkbox"/> G; <input type="checkbox"/> H; <input type="checkbox"/> I; <input type="checkbox"/> J; Reason _____ Statement of Financial Affairs: _____
<input type="checkbox"/>	9. <b>EXEMPTIONS:</b> The Trustee objects to the following exemptions: Reasons: _____ Exemption exceeds statutory amount. Other: _____

The Bankruptcy Code requires that you cooperate with the Trustee [11 U.S.C. 521(a)(3)&(4)]. If you fail to comply with these instructions or if you supply incomplete or inaccurate information, the Trustee may ask the Court to impose sanctions against you, including denial or revocation of your discharge, payment of fees and expenses, and/or dismissal of your case.

DATED: <u>4/11/14</u>	Michael F. Thomson, Chapter 7 Trustee, by: 
-----------------------	---

# EXHIBIT B





MICHAEL F. THOMSON  
(801) 933-8929  
thomson.michael@dorsey.com

October 20, 2014

**VIA ELECTRONIC MAIL AND POSTAL SERVICE**

Bryan Adamson  
The Justice Firm  
132 W Tabernacle  
St. George, UT 84770  
badamson@dixielegal.com

Re: Mason & Chelsea Lofthouse; Chapter 7 Case No. 14-22047

Dear Mr. Adamson:

It was recently brought to my attention that the 1998 Toyota Tacoma (the "Toyota"), which I had directed your clients to have appraised, was traded in for another vehicle by your clients post-petition. In connection with this unauthorized transfer of estate property, please instruct your clients to provide me with all documents evidencing the trade-in, including, but not limited to, evidence of the value received for the Toyota and all loan documents related to the purchase of the new vehicle. Please provide these documents as soon as possible and by no later than November 3, 2014.

In addition, pursuant to the Debtors' 2013 tax returns, the Debtors are entitled to a \$3,604.00 refund (the "Refund") from the Internal Revenue Service (the "IRS"). Today I received a \$1,783.00 check directly from the IRS for the Refund. To the extent that the Debtors receive correspondence from the IRS related to any offset of or adjustment to the Refund, please instruct your clients to provide me with copies of said correspondence immediately upon receipt. To the extent that the Debtors receive funds from the IRS for the remainder of the Refund, please remind them that said funds are property of the bankruptcy estate which must turn over to me immediately upon receipt.

Please feel free to contact me should you have any questions. To avoid any undue delay or miscommunication I am providing the Debtors with a copy of this letter directly.

Yours truly,

DORSEY & WHITNEY LLP

Michael F. Thomson

MT:mm

Cc: Mason & Chelsea Lofthouse, 2050 South 1400 East, St. George, UT 84770

# EXHIBIT C

## Montoya, Michelle

---

**From:** Montoya, Michelle  
**Sent:** Tuesday, October 28, 2014 1:44 PM  
**To:** Rachel Campbell (rcampbell@dixielegal.com)  
**Cc:** Bryan Adamson - The Justice Firm (badamson@dixielegal.com)  
**Subject:** RE: Mason & Chelsea Lofthouse; Chapter 7 Case No. 14-22047  
**Attachments:** Lofthouse Letter BAdamson 10-20-14.pdf

Rachel, the copy of the attached letter which we mailed to your clients at their address on file with the court has been returned by the post-office. Please update the court with the debtors' current address as soon as possible.

Thank you,

~Michelle

---

**From:** Montoya, Michelle  
**Sent:** Monday, October 20, 2014 4:11 PM  
**To:** Bryan Adamson - The Justice Firm (badamson@dixielegal.com)  
**Cc:** Rachel Campbell (rcampbell@dixielegal.com)  
**Subject:** Mason & Chelsea Lofthouse; Chapter 7 Case No. 14-22047

Please see the attached letter.

**Michelle Montoya**  
Paralegal

---

**DORSEY & WHITNEY LLP**  
Kearns Building  
136 South Main Street, Suite 1000  
Salt Lake City, UT 84101-1685  
www.dorsey.com  
P: 801.933.8913

---

**CONFIDENTIAL COMMUNICATION**

*E-mails from this firm normally contain confidential and privileged material, and are for the sole use of the intended recipient. Use or distribution by an unintended recipient is prohibited, and may be a violation of law. If you believe that you received this e-mail in error, please do not read this e-mail or any attached items. Please delete the e-mail and all attachments, including any copies thereof, and inform the sender that you have deleted the e-mail, all attachments and any copies thereof. Thank you*

Please help reduce paper and ink usage. Print only if necessary.

# EXHIBIT D

MICHAEL F. THOMSON  
(801) 933-8929  
thomson.michael@dorsey.com

November 12, 2014

**VIA ELECTRONIC MAIL AND POSTAL SERVICE**

Bryan Adamson  
The Justice Firm  
132 W Tabernacle  
St. George, UT 84770  
badamson@dixielegal.com

Re: Mason & Chelsea Lofthouse; Chapter 7 Case No. 14-22047

Dear Mr. Adamson:

As you know, I directed your clients to provide me with all documents evidencing the post-petition trade-in of their 1998 Toyota Tacoma (the "Toyota"), for another vehicle. A copy of my October 20, 2014, letter is enclosed for your reference. As of today's date, I have not received these documents. Please instruct your clients to provide me with all documents evidencing the trade-in of the Toyota, including, but not limited to, evidence of the value received for the Toyota and all loan documents related to the purchase of the new vehicle. Please provide these documents as soon as possible and by no later than November 26, 2014.

In addition, although my paralegal, Michelle Montoya, indicated to you that mail sent to your clients had been returned undeliverable, the Court still reflects the same address. A copy of Ms. Montoya's email is enclosed for your reference. Please instruct your clients to update the Court with their current mailing address as soon as possible and by no later than November 26, 2014.

Please advise your clients that their failure to comply with the directives of their bankruptcy trustee and their failure to turn over the requested documents and/or their failure to update the Court with their new mailing address by the November 26th deadlines will lead to me filing a motion with the Court compelling them to comply with my directives, and also seeking monetary sanctions against them for having to file the motion.

Please feel free to contact me should you have any questions.

Yours truly,

DORSEY & WHITNEY LLP



Michael F. Thomson

MT:mm

Encls.